

4310-84-P
DEPARTMENT OF THE INTERIOR

[516 DM 11]

National Environmental Policy Act Revised Implementing Procedures

AGENCY: Department of the Interior.
Bureau of Land Management

ACTION: Notice of Proposed Revision to the Bureau of Land Management's (BLM) Procedures for Chapter 11 of the Department of the Interior's Manual 516 DM – Managing the NEPA Process

SUMMARY: This notice announces the intent to revise the BLM policies and procedures for compliance with the National Environmental Policy Act (NEPA), as amended, Executive Order 11514, as amended, Executive Order 12114, and the Council on Environmental Quality's Regulations. When adopted, these procedures will be published in Part 516, Chapter 11, of the Departmental Manual (DM) and will be added to the Department of the Interior's (DOI) Electronic Library of Interior Policies (ELIPS). ELIPS is located at: <http://elips.doi.gov>. The public can review the proposed Categorical Exclusion (CX) Analysis Reports on the Department of the Interior's website at <http://www.doi.gov/oeppc> or at the Bureau of Land Management's website at <http://www.blm.gov/planning>.

The BLM procedures were last updated May 19, 1992. The proposed revisions are necessary to update these procedures. BLM's current procedures can be found at: http://elips.doi.gov/app_DM/act_getfiles.cfm?nelnum=3621. The public is asked to review and comment on the proposed changes in Chapter 11 of the manual, including the newly proposed categorical exclusions (CXs).

DATES: Comments must be postmarked no later than 30 days following publication of this notice in the *Federal Register*.

ADDRESSES: Comments should be mailed to: Content Analysis Team, BLM Categorical Exclusions, Post Office Box 22777, Salt Lake City, Utah, 84122-0777, or Fax (801) 517-1014 or E-Mail to BLMCX@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: Deb Rawhouser, Group Manager, Planning and Science Support at (202) 452-0354.

SUPPLEMENTARY INFORMATION: These procedures, which were formerly listed as 516 DM 6 Appendix 5 (Currently 516 DM 11) address policy as well as procedure in order to assure compliance with the spirit and intent of NEPA. The proposed procedures update BLM's general NEPA process to incorporate changes in responsibilities, clarify requirements for public participation, identify

the appropriate level of NEPA compliance for various types of actions, and incorporate new Departmental requirements. Following the supplementary information is the draft text of Chapter 11, which contains the revised procedures. Analysis Reports associated with the proposed CXs will be posted at: <http://www.doi.gov/oepec> and www.blm.gov/planning .

The following is an overview of the all the proposed changes to Chapter 11.

- Section 11.1 – Purpose is a new section that defines the reason for this Chapter and also mentions BLM’s ENPA handbook for additional guidance;
- Section 11.2 – NEPA Responsibility has no major changes;
- Section 11.3 B – Guidance to Applicants has a minor addition of one new regulation (Wilderness Management 43 CFR 6300) to provide guidance to applicants to better understand wilderness policy;
- Section 11.4 – General Requirements is a new section and addresses general requirements for quality of NEPA documents;
- Section 11.5 - Plan Performance is a new section that provides guidance to ensure plan conformance;
- Section 11.6 – Use of Existing Documentation (Determination of NEPA Adequacy) is a new section that is used to determine if an existing NEPA document can be properly relied on and to document that BLM took the “hard look” at whether new circumstances, new information, or environmental impacts not previously anticipated or analyzed warrant new analysis or supplementation of existing NEPA documents;
- Section 11.7 – Actions Typically Requiring an Environmental Assessment (EA) is a new section and provides guidance to responsible officials who are uncertain of the potential for significant impact of the proposed action and to determine if further analysis is needed to make the determination;
- Section 11.8 – Major Actions Normally Requiring an Environmental Impact Statement (EIS) brings together in one document the BLM’s guidance to responsible officials who must evaluate and analyze proposals and make decisions on resources; and
- Section 11.9 – Categorical Exclusions are needed to add certain routine BLM actions to the list of categories of actions that do not individually or cumulatively have a significant impact on the environment.

The following are summaries of changes being made by category to CXs listed in the 1992 Manual. These changes include proposed new, modified or renumbered CXs (Section 11.9):

A. Fish and Wildlife – No proposed changes to this category. The public is not asked to comment.

B. Oil, Gas, and Geothermal Energy (formerly Fluid Minerals) – The title of this section is changed from Fluid Minerals to accurately encompass geothermal energy in addition to oil and gas. The public is asked to comment on the proposed CXs numbered B (6)-(8). The three new CXs are proposed to be added to the existing five CXs. One of the three CXs is for geophysical exploration. Two of the three proposed CXs are for geothermal energy actions and are applicable to Nevada only.

The geophysical CX is proposed after reviewing numerous EA analyses that resulted in Findings of No Significant Impact for these types of action over time and over different geographic areas. The two geothermal CXs are being proposed after reviewing several EA analyses. The data set for the geothermal CXs is limited because geothermal activities became dormant during the 1990's when oil and gas production was prevalent and supplies were abundant. For both geophysical exploration and geothermal activities, the actions do not individually or cumulatively have significant impacts on the human environment and do not require additional environmental analysis.

C. Forestry. Four new CXs are proposed to be added to the existing five CXs. The public is asked to comment on the proposed CXs numbered C (6)-(9). Proposed CX number (6) is proposed after conducting numerous EA analyses that resulted in Findings of No Significant Impact for these types of action over time and over different geographic areas. These actions do not individually or cumulatively have significant impacts on the human environment and do not require additional environmental analysis. Proposed CXs (7)-(9) are identical to existing USDA Forest Service CXs. After discussions with USDA Forest Service, and review and analysis of the data used to substantiate their CXs, it has been determined that it is appropriate for BLM to propose the same CXs. This is due to the similarity in locale, cover type, scope, and intensity of BLM's Forestry actions.

D. Rangeland Management. The public is asked to comment on three proposed CXs numbered D (10)-(12). The CXs are proposed after reviewing numerous EA analyses that resulted in Findings of No Significant Impact for these types of routine actions over time and over different geographic areas. These actions do not individually or cumulatively have significant impacts on the human environment and do not require additional environmental analysis. One of the CXs pertains to vegetation management and cover actions, and is limited in scope and duration. The other two CXs cover renewal of grazing permits and issuance of temporary non-renewable grazing permits. The proposed CXs

specify that where a land health assessment and evaluation determines that grazing is a contributing factor to the failure of land health standards, the proposed CXs would not be used.

E. Realty. There are no proposed CXs for this category. However, the CX numbered E (16) was slightly modified to clarify purposes for acquiring temporary access easements. The public is asked to comment on the modification of this CX.

F. Solid Minerals. No proposed changes to this category. The public is not asked to comment.

G. Transportation. The title of this category is changed from Transportation Signs to Transportation. There are no proposed CXs for this category. However, three existing CXs numbered G (1)-(3) were modified by adding the words “and trails” after “existing roads”. This is because the environmental impact of these actions on or along trails is not any greater than on or along “existing roads”. The public is asked to comment on the modification of these CXs.

H. Recreation Management. This is a new category added to allow for the incorporation of recreation CXs. The existing Recreation CX found under category “J – Other (5)” is being moved to the new category. The CX is proposed to be modified and the public is asked to comment on this modified CX numbered H (1).

I. Emergency Stabilization. This is a new category covering stabilization activities following natural disasters, not to exceed 4,200 acres, (such as seeding or planting, fence construction, culvert repair, installation of erosion control devices, repair of roads and trails, stabilization of cultural heritage sites, and repair or replacement of minor facilities damaged that are essential to public health and safety) which are necessary to prevent degradation of land or resources. The CX is proposed after conducting numerous EA analyses that resulted in Findings of No Significant Impact for these types of action over time and over different geographic areas. These actions do not individually or cumulatively have significant impacts on the human environment and do not require additional environmental analysis. The public is asked to comment on the CX numbered I (1).

J. Other. There are no new CXs for this category. One CX from this category, J (5), was moved to the Recreation Management category. The number (5) CX slot is now reserved. The public is not asked to comment.

The remaining sections of SUPPLEMENTARY INFORMATION provides an overview of the proposed changes, and background and procedural requirements.

Background: The final revised procedures for the Department were published in the Federal Register on March 8, 2004 (Volume 69, Number 45). These procedures address policy as well as procedure in order to assure compliance with the spirit and intent of NEPA. The procedures for the Department's bureaus are published as chapters to this DM part. Chapter 11 of the Department's Manual covers the BLM's procedures.

Procedural Requirements: The following list of procedural requirements has been assembled and addressed to contribute to this open review process. Today's publication is a notice of draft, internal Departmental action and not a rulemaking. However, we have addressed the various procedural requirements that are generally applicable to proposed and final rulemaking to show how they would affect this notice if it were a rulemaking.

Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993) it has been determined that this action is the implementation of policy and procedures applicable only to the Department of the Interior and not a significant regulatory action. These policies and procedures would not impose a compliance burden on the general economy.

Administrative Procedures Act

This document is not subject to prior notice and opportunity to comment because it is a general statement of policy and procedure [(5 U.S.C. 553(b)(A)]. However, notice and opportunity to comment is required by the CEQ Regulations [40 CFR 1507.3(a)].

Regulatory Flexibility Act

This document is not subject to notice and comment under the Administrative Procedures Act, and, therefore, is not subject to the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This document provides the Department with policy and procedures under NEPA and does not compel any other party to conduct any action.

Small Business Regulatory Enforcement Fairness Act

These policies and procedures do not comprise a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The document will not have an annual effect on the economy of \$100 million or more and is expected to have no significant economic impacts. Further, it will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions and will [[Page 52596]] impose no additional regulatory restraints in addition to those already in operation. Finally, the document does not have significant adverse

effects on competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete with foreign based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, et seq.), this document will not significantly or uniquely affect small governments. A Small Government Agency Plan is not required. The document does not require any additional management responsibilities. Further, this document will not produce a Federal mandate of \$100 million or greater in any year, that is, it is not a significant regulatory action under the Unfunded Mandates Reform Act. These policies and procedures are not expected to have significant economic impacts nor will they impose any unfunded mandates on other Federal, State, or local government agencies to carry out specific activities.

Federalism

In accordance with Executive Order 13132, this document does not have significant Federalism effects; and, therefore, a Federalism assessment is not required. The policies and procedures will not have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No intrusion on State policy or administration is expected, roles or responsibilities of Federal or State governments will not change, and fiscal capacity will not be substantially, directly affected. Therefore, the document does not have significant effects or implications on Federalism.

Paperwork Reduction Act

This document does not require information collection as defined under the Paperwork Reduction Act. Therefore, this document does not constitute a new information collection system requiring Office of Management and Budget (OMB) approval under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

National Environmental Policy Act

The Council on Environmental Quality does not direct agencies to prepare a NEPA analysis or document before establishing agency procedures that supplement the CEQ regulations for implementing NEPA. Agency NEPA procedures are internal procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. The requirements for establishing agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3. The determination that establishing categorical exclusions does not require NEPA analysis and documentation has been upheld

in *Heartwood, Inc. v. U.S. Forest Service*, 73 F. Supp. 2d 962, 972-73 (S.D. Ill. 1999), *aff'd* 230 F.3d 947, 954-55 (7th Cir. 2000).

Essential Fish Habitat

We have analyzed this document in accordance with section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and determined that issuance of this document will not affect the essential fish habitat of federally managed species; and, therefore, an essential fish habitat consultation on this document is not required.

Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175 of November 6, 2000, and 512 DM 2, we have assessed this document's impact on Tribal trust resources and have determined that it does not directly affect Tribal resources since it describes the Department's procedures for its compliance with NEPA.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 of May 18, 2001, requires a Statement of Energy Effects for significant energy actions. Significant energy actions are actions normally published in the Federal Register that lead to the promulgation of a final rule or regulation and may have any adverse effects on energy supply, distribution, or use. We have explained above that this document is an internal Departmental Manual part which only affects how the Department conducts its business under the National Environmental Policy Act. Revising this manual part does not constitute rulemaking and, therefore, not subject to Executive Order 13211.

Actions to Expedite Energy-Related Projects

Executive Order 13212 of May 18, 2001, requires agencies to expedite energy-related projects by streamlining internal processes while maintaining safety, public health, and environmental protections. Today's publication is in conformance with this requirement as it promotes existing process streamlining requirements and revises the text to emphasize this concept (see Chapter 4, subpart 4.16).

Government Actions and Interference with Constitutionally Protected Property Rights

In accordance with Executive Order 12630 (March 15, 1988) and Part 318 of the Departmental Manual, the Department has reviewed today's notice to determine whether it would interfere with constitutionally protected property rights. Again, we believe that as internal instructions to bureaus on the implementation of the

National Environmental Policy Act, this publication would not cause such interference.

Authority: NEPA, the National Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.); E.O. 11514, March 5, 1970, as amended by E.O. 11991, May 24, 1977; and CEQ Regulations 40 CFR 1507.3.

Willie R. Taylor, Director
Office of Environmental Policy and Compliance

Date: _____

Department of the Interior Departmental Manual

Effective Date:

Series: Environmental Quality

Part 516: National Environmental Policy Act of 1969

Chapter 11: Managing the NEPA Process--Bureau of Land Management

Originating Office: Office of Environmental Policy and Compliance

516 DM 11

11.1. Purpose

This Chapter provides supplementary requirements for implementing provisions of 516 DM 1 through 6 for the Department of the Interior's Bureau of Land Management (BLM). The BLM's National Environmental Policy Act (NEPA) Handbook (H-1790-1) will provide additional guidance.

11.2. NEPA Responsibility

- A. The Director and Deputy Director(s) are responsible for National Environmental Policy Act (NEPA) compliance for BLM activities.
- B. The Assistant Director, Renewable Resources and Planning, is responsible for policy interpretation, program direction, leadership, and line management for BLM environmental policy, coordination and procedures. The Planning, Assessment and Community Support Group, which reports to the Assistant Director, Renewable Resources and Planning, has bureau-wide environmental compliance responsibilities. These responsibilities include program direction for environmental compliance and ensuring the incorporation and integration of the NEPA compliance process into BLM environmental documents.
- C. The Director, National Landscape Conservation System; other Assistant Directors for Minerals, Realty, and Resource Protection; Information Resources Management; Communications; are responsible for cooperating with the Assistant Director, Renewable Resources and Planning to ensure that the environmental compliance process operates as prescribed within their areas of responsibility.
- D. The Center Directors for the Office of Fire and Aviation and for the National Science and Technology are also responsible for cooperating with the Assistant Director, Renewable Resources and Planning to ensure that the environmental compliance process operates as prescribed within their areas of responsibility.

E. The State Directors are responsible to the Director/Deputy Director(s) for overall direction and integration of the NEPA process into their activities and for NEPA compliance in their States. This includes managing and ensuring the quality of public notification and participation, environmental analyses, assigned environmental documents, and decision documents. Deputy State Directors in each State office (the title varies from state to state) provides the major staff support and are the key focal points for NEPA matters at the State level.

(1) The Field Office Managers are responsible for implementing the NEPA process at the local level.

11.3. Guidance to Applicants

A. General.

(1) For all external proposals, applicants should make initial contact with the line manager (District Manager, Field Manager, or State Director) of the office where the affected public lands are located.

(2) If the application will affect responsibilities of more than one State Director, an applicant may contact any State Director whose jurisdiction is involved. In such cases, the Director may assign responsibility to the Headquarters Office or to one of the State offices. From that point the applicant will deal with the designated lead office.

(3) Potential applicants may secure from State Directors a list of program regulations or other directives/guidance providing advice or requirements for submission of environmental information. The purpose of making these regulations known to potential applicants, in advance, is to assist them in presenting a detailed, adequate and accurate description of the proposal and alternatives when they file their application and to minimize the need to request additional information. This is a minimum list and additional requirements may be identified after detailed review of the formal submission and during scoping.

(4) Since much of an applicant's planning may take place outside of BLM's planning system, it is important for potential applicants to advise BLM of their planning at the earliest possible stage. Early communication is necessary to properly conduct our stewardship role on the public lands and to seek solutions to situations where private development decisions may conflict with public land use decisions. Early contact will also allow the determination of basic data needs concerning environmental

amenities and values, potential data gaps that could be filled by the application, and a modification of the list or requirements to fit local situations. Scheduling of the environmental analysis process can also be discussed, as well as various ways of preparing any environmental documents.

B. Regulations.

The following partial list provides guidance to applicants on program regulations which may apply to a particular application. Many other regulations deal with proposals affecting public lands, some of which are specific to BLM while others are applicable across a broad range of Federal programs (e.g., Protection of Historic and Cultural Programs--36 CFR Part 800).

- (1) Resource Management Planning--43 CFR 1610;
- (2) Withdrawals--43 CFR 2300;
 - (3) Land Classification--43 CFR 2400;
 - (4) Disposition: Occupancy and Use--43 CFR 2500;
- (5) Disposition: Grants--43 CFR 2600;
- (6) Disposition: Sales--43 CFR 2700;
- (7) Use: Rights-of-Way--43 CFR 2800;
- (8) Use: Leases and Permits--43 CFR 2900;
- (9) Oil and Gas Leasing--43 CFR 3100;
- (10) Geothermal Resources Leasing--43 CFR 3200;
- (11) Coal Management--43 CFR 3400;
- (12) Leasing of Solid Minerals Other than Coal/Oil Shale--43 CFR 3500;
- (13) Mineral Materials Disposal--43 CFR 3600;
- (14) Mining Claims under the General Mining Laws--43 CFR 3800;
- (15) Grazing Administration--43 CFR 4100;
- (16) Wild Free-Roaming Horse and Burro Management--43 CFR 4700;

- (17) Forest Management--43 CFR 5000;
- (18) Wildlife Management--43 CFR 6000;
- (19) Recreation Management--43 CFR 8300; and
- (20) Wilderness Management-- 43 CFR 6300.

11.4. General Requirements

The Council on Environmental Quality (CEQ) regulations direct that Federal agencies shall reduce paperwork and delay (40 CFR 1500.4 & 1500.5) to the fullest extent possible. The information used in any NEPA analysis must be of high quality. Accurate scientific analysis, expert agency comments and public scrutiny are essential to implementing NEPA (40 CFR 1500.1 (b)).

Environmental documents should be written in plain language so they can be understood and should concentrate on the issues that are truly significant to the action in question rather than amassing needless detail (40 CFR 1502.8 and 1500.1(b)).

A. To meet the objectives of reducing paperwork and delays:

The responsible official should use incorporation by reference (40 CFR 1502.21); tiering (40 CFR 1502.20); adoption (40 CFR 1506.3); and supplementing (40 CFR 1502.9). The responsible official will avoid unnecessary duplication of effort and promote cooperation with other federal agencies that have permitting, funding, approval or other consultation or coordination requirements associated with the action in question by using, to the fullest extent possible, adoption of NEPA analyses and documents and incorporation by reference of relevant studies and analyses. Cooperation will include, to the fullest extent possible, the following: common databases, joint planning processes; joint environmental research and studies; joint public meetings and hearings; and joint Environmental Assessment (EA) level and joint Environmental Impact Statement (EIS) level analyses using joint lead or cooperating agency status.

B. Consultation and Coordination:

During any NEPA process, the responsible official will determine early in the process the type and level of coordination needed or desired with a particular person, organization, agency, or Tribe. After the NEPA process is completed, some level of coordination will often continue throughout project design, implementation, monitoring, and evaluation.

C. Eliminating duplication with Tribal, State and Local governmental procedures (40 CFR 1506.2):

The responsible official will cooperate with Tribal, State and Local governmental agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements in addition to but not in conflict with those in NEPA. To the fullest extent possible, such cooperation will include the following: common databases, joint planning processes; joint environmental research and studies; joint public meetings and hearings; joint EA-level analyses; joint EIS-level analyses.

D. Integrating NEPA with other environmental review requirements: Wherever feasible, the responsible official will integrate NEPA requirements with other environmental review and consultation requirements to reduce paperwork and delays (40 CFR 1500.4(k) and 1500.5(g)).

E. Public involvement:

(1) The importance of involving the public early at the time, level, and phase of the NEPA analysis process, decision, and implementation stage, cannot be overstated. Therefore, the public shall be involved early and continuously as appropriate throughout the NEPA process. The type and level of public involvement shall be commensurate with the NEPA analysis needed to make the decision at hand. Management training for BLM employees hosting a public meeting is addressed in Section "H" below.

(2) Where feasible, implement consensus based decision making. However, when consensus cannot be reasonably reached, the Bureau has the exclusive responsibility for making the decision and shall exercise that responsibility in a timely manner.

F. Limitations on Actions during the NEPA Analysis Process (40 CFR 1506.1):

Once the responsible official has initiated a NEPA analysis process (EA, EIS, or Categorical Exclusion level) and until a decision document [Decision Record (DR) or Record of Decision (ROD)] has been signed, no action concerning the proposal will be taken that would:

- (1) Have an adverse environmental impact, or
- (2) Limit the choice of reasonable alternatives.

G. Adaptive Management.

Where feasible, implement adaptive management (AM) procedures into the NEPA, planning and implementation processes. AM is defined in 516 DM 4.16, as “a system of management practices based on clearly identified outcomes, monitoring to determine if management actions are meeting outcomes, and, if not, facilitating management changes that will best ensure that outcomes are met or to re-evaluate the outcomes”.

Adaptive management recognizes that knowledge about natural resource systems is sometimes uncertain and is the preferred method of management in these cases.

H. Management Training (Alternative Dispute Resolution (ADR), Negotiation or Facilitation).

Departmental guidance contained in Environmental Statement Memorandum Number “ESM03-4”, dated July 2, 2003, makes it mandatory that within three years of the date of this memorandum, any BLM employee hosting a public meeting for the purpose of addressing NEPA compliance must have participated in some form of training listed in ESM03-4, Section 5 “Management Training”.

The training can be separate or a combination of course topics as listed above at some stage in their career.

11.5. Plan conformance

A proposal must be in conformance with an existing BLM land use plan. This means that it must be specifically provided for in the plan, or if not specifically mentioned, the proposal must be clearly consistent with the terms and conditions, decision of the approved plan or amended plan. If not consistent, the proposal will be rejected or the BLM will prepare a land use plan amendment.

11.6. Use of existing documentation (Determination of NEPA Adequacy)

If it has been determined that existing NEPA documents can be properly relied on, an administrative record must be established that clearly documents that the agency took a “hard look” at whether new circumstances, new information, or environmental impacts not previously anticipated or analyzed warrant new analysis or supplementation of existing NEPA documents and whether the impact analysis considered impacts of the proposed action. This review must be accomplished through an interdisciplinary process that considers the affected values. The BLM has considerable flexibility in accomplishing the interdisciplinary analysis; it may vary from the assembly of a full interdisciplinary team to consultation by the lead staff specialist or NEPA coordinator with resource specialists assigned to affected resources.

A. The worksheet in Appendix 11.2 (pp. 28 to 33) is to be used to document whether the current proposal conforms to applicable plans and is adequately analyzed in existing NEPA documents. The signed conclusion in the worksheet is an interim step in BLM's internal analysis process and an appealable decision is not made until a ROD is signed.

B. The documentation is concise but must adequately address the criteria in the worksheet. Review the relevant parts of the existing record, including terms, conditions, and mitigation measures, in the context of existing on-the-ground conditions. The age of the documents reviewed may indicate that information or circumstances have changed significantly.

C. Because the land use plan (LUP) must be reviewed first to insure that the current proposed action is in conformance with the plan, the worksheet provides for documentation of the results of the LUP review. If it is determined that the current proposed action does not conform with the plan, the responsible official may (1) reject the proposal, (2) modify the proposal to conform to the LUP, or (3) complete appropriate plan amendments and NEPA compliance before proceeding with the proposed action.

D. If it is determined that the existing NEPA documentation is inadequate, the proposal may be removed from further consideration or the information compiled and worksheet completed to that point will be used to facilitate the preparation of the appropriate level of NEPA analysis.

11.7. Actions Typically Requiring an Environmental Assessment (EA)

A. An EA-level analysis should be completed when the responsible official is uncertain of the potential for significant impact and needs further analysis to make the determination.

B. An EA is a concise public document that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an EIS or a Finding of No Significant Impact (FONSI).

(2) Aid BLM's compliance with NEPA when no EIS is necessary.

(3) Facilitate preparation of an EIS when one is necessary.
(40 CFR 1508.9)

C. The following types of BLM actions will typically, although not exclusively, result in completion of an EA. An EA is completed when these

actions are not categorically excluded or having potentially significant impacts.

(1) Implementation decisions -- actions taken to implement land use plan decisions: Implementation decisions normally require additional planning and NEPA analysis, tiered to the land use plan's EIS, and must conform to land use plan decisions. Implementation decisions are generally appealable to IBLA under 43 CFR Part 4. Examples of implementation decisions include establishment of:

1. Allotment-specific permitted-use levels.
2. Livestock grazing systems.
3. Vegetation treatment practices, including weed control.
4. Hazardous fuels reduction and restoration projects.
5. Forest stands treatments.
6. Right-of-way grants.
7. Recreation facilities.
8. Appropriate management levels (AMLs) for wild horses and burros.

(2) Implementation plans, such as recreation activity plans, cultural resource management plans, habitat management plans, fire management plans, and coordinated resource project plans, etc.

(3) Approval of resource use permits, such as applications for a permit to drill (APDs), livestock grazing permits, and timber sales.

D. If, for any of these actions, it is anticipated or determined that an EA is not needed because of potential impact significance, an EIS will be prepared and processed in accordance with 40 CFR 1502.

11.8 Major Actions Normally Requiring an EIS

A. An EIS-level analysis should be completed when:

(1) The impacts of an action are potentially significant; or the impact analysis of an action is likely to be highly controversial.

(2) The action taken is *directly* related to other actions that if taken individually would have insignificant impacts, but cumulatively the actions would cause significant impacts.

B. The following types of bureau actions will normally require the preparation of an EIS:

(1) Approval of Resource Management Plans.

(2) Proposals for Wilderness, Wild and Scenic Rivers, and National Historic Scenic Trails.

(3) Approval of regional coal lease sales in a coal production region.

(4) Decision to issue a coal preference right lease.

(5) Approval of applications to the BLM for major actions in the following categories:

(a) Sites for steam-electric power plants, petroleum refineries, synfuel plants, and industrial facilities.

(b) Rights-of-way for major reservoirs, canals, pipelines, transmission lines, highways and railroads.

(6) Approval of operations that would result in liberation of radioactive tracer materials or nuclear stimulation.

(7) Approval of any mining operation where the area to be mined, including any area of disturbance, over the life of the mining plan, is 640 acres or larger in size.

C. If, for any of these actions it is anticipated that an EIS is not needed based on potential impact significance, an environmental assessment will be prepared and processed in accordance with 40 CFR 1501.4(e)(2) EIS.

11.9 Categorical Exclusions:

The Departmental Manual (516 DM 2.3A (3) and App. 2) requires that before any action described in the following list of categorical exclusions is used, the exceptions must be reviewed for applicability in each case. The proposed action cannot be categorically excluded if one or more of the exceptions apply, thus requiring either an EA or an EIS. When no exceptions apply, the following types of bureau actions normally do not require the preparation of an EA or EIS.

A. Fish and Wildlife.

- (1) Modification of existing fences to provide improved wildlife ingress and egress.
- (2) Minor modification of water developments to improve or facilitate wildlife use (e.g., modify enclosure fence, install flood valve, or reduce ramp access angle).
- (3) Construction of perches, nesting platforms, islands and similar structures for wildlife use.
- (4) Temporary emergency feeding of wildlife during periods of extreme adverse weather conditions.
- (5) Routine augmentations such as fish stocking, providing no new species are introduced.
- (6) Relocation of nuisance or depredating wildlife, providing the relocation does not introduce new species into the ecosystem.
- (7) Installation of devices on existing facilities to protect animal life such as raptor electrocution prevention devices.

B. Oil, Gas, and Geothermal Energy.

- (1) Issuance of future interest leases under the Mineral Leasing Act of Acquired Lands where the subject lands are already in production.
- (2) Approval of mineral lease adjustments and transfers, including assignments and subleases.
- (3) Approval of unitization agreements, communitization agreements, drainage agreements, underground storage agreements, development contracts, or geothermal Unit or participating area agreements.
- (4) Approval of suspensions of operations, force majeure suspensions, and suspensions of operations and production.
- (5) Approval of royalty determinations such as royalty rate reductions.
- (6) Establishment of terms and conditions and approval of Notices of Intent to conduct geophysical exploration of oil, gas, or

geothermal pursuant to 43 CFR 3150 or 3250 when no road construction is proposed.

(7) Drilling and subsequent operations of a geothermal well within a developed field for which a currently approved land use plan and/or any environmental document prepared pursuant to NEPA analyzed drilling as a reasonably foreseeable future activity. The application of this categorical exclusion is limited to Nevada.

(8) Issuance of individual operational permits or licenses subsequent to or part of a geothermal utilization plan for which any environmental document prepared pursuant to NEPA analyzed the overall development of geothermal resources and siting of facilities as part of an approved utilization plan in accordance with 43 CFR 3272 or subsequent revisions. The application of this categorical exclusion is limited to Nevada.

C. Forestry.

(1) Land cultivation and silvicultural activities (excluding herbicide applications) in forest tree nurseries, seed orchards, and progeny test sites.

(2) Sale and removal of individual trees or small groups of trees which are dead, diseased, injured, or which constitute a safety hazard, and where access for the removal requires no more than maintenance to existing roads.

(3) Seeding or reforestation of timber sales or burn areas where no chaining is done, no pesticides are used, and there is no conversion of timber type or conversion of non-forest to forest land. Specific reforestation activities covered include: seeding and seedling plantings, shading, tubing (browse protection), paper mulching, bud caps, ravel protection, application of non-toxic big game repellent, spot scalping, rodent trapping, fertilization of seed trees, fence construction around out-planting sites, and collection of pollen, scions and cones.

(4) Precommercial thinning and brush control using small mechanical devices.

(5) Disposal of small amounts of miscellaneous vegetation products outside established harvest areas, such as Christmas trees, wildings, floral products (ferns, boughs, etc.), cones, seeds, and personal use firewood.

(6) Falling, bucking, and scaling sample trees (no more than one tree per acre) to ensure accuracy of timber cruises, using only gas-powered chainsaws or hand tools, with no road construction, use of ground-based equipment, or any other manner of timber yarding. The application of this categorical exclusion is limited to the western Oregon districts of Coos Bay, Eugene, Medford, Roseburg, and Salem.

(7) Harvesting live trees not to exceed 70 acres, requiring no more than 0.5 mile of temporary road construction. Do not use this category for even-aged regeneration harvest or vegetation type conversion. The proposed action may include incidental removal of trees for landings, skid trails, and road clearing. Examples include but are not limited to:

- (a) Removing individual trees for sawlogs, specialty products, or fuelwood; and

- (b) Commercial thinning of overstocked stands to achieve the desired stocking level to increase health and vigor.

(8) Salvaging dead or dying trees not to exceed 250 acres, requiring no more than 0.5 mile of temporary road construction. The proposed action may include incidental removal of live or dead trees for landings, skid trails, and road clearing. Examples include but are not limited to:

- (a) Harvesting a portion of a stand damaged by a wind or ice event and constructing a short, temporary road to access the damaged trees; and

- (b) Harvesting fire damaged trees.

(9) Commercial and non-commercial sanitation harvesting of trees to control insects or disease not to exceed 250 acres, requiring no more than 0.5 mile of temporary road construction, including removal of infested/infected trees and adjacent live uninfested/uninfected trees as determined necessary to control the spread of insects or disease. The proposed action may include incidental removal of live or dead trees for landings, skid trails, and road clearing. Examples include but are not limited to:

- (a) Felling and harvesting trees infested with southern pine beetles and immediately adjacent uninfested trees to control expanding spot infestations;

(b) Removing or destroying trees infested or infected with a new exotic insect or disease, such as emerald ash borer, Asian longhorned beetle, or sudden oak death pathogen.

D. Rangeland Management.

- (1) Approval of transfers of grazing preference.
- (2) Placement and use of temporary (not to exceed one month) portable corrals and water troughs, providing no new road construction is needed.
- (3) Temporary emergency feeding of livestock or wild horses and burros during periods of extreme adverse weather conditions.
- (4) Removal of wild horses or burros from private lands at the request of the landowner.
- (5) Processing (transporting, sorting, providing veterinary care to, vaccinating, testing for communicable diseases, training, gelding, marketing, maintaining, feeding, and trimming of hooves of) excess wild horses and burros.
- (6) Approval of the adoption of healthy, excess wild horses and burros.
- (7) Actions required to ensure compliance with the terms of Private Maintenance and Care Agreements.
- (8) Issuance of title to adopted wild horses and burros.
- (9) Destroying old, sick, and lame wild horses and burros as an act of mercy.
- (10) Vegetation management activities such as seeding, planting, invasive plant removal, installation of erosion control devices (e.g., mats/straw/chips), and mechanical treatments such as crushing, piling, thinning, pruning, cutting, chipping, mulching, mowing, and prescribed fire when the activity is necessary for the management of vegetation on public lands. Such activities:
 - Shall not exceed 4,500 contiguous acres per prescribed fire project and 1,000 acres for other vegetation management projects; and

- Shall be conducted consistent with Bureau and Departmental procedures;
- and applicable land and resource management plans; and
- Shall not be conducted in wilderness areas or impair the suitability of wilderness study areas for preservation as wilderness; and
- Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure.

(11) Issuance of livestock grazing permits/leases where:

(a) The grazing allotment(s) has been assessed and evaluated and the authorized officer documents in a determination that the allotment is:

(1) Meeting land health standards; or

(2) Not meeting standards solely due to factors other than existing livestock grazing; or

(b) Issuing the permit is the result of an administrative action, such as, but not limited to, changing permit termination date or permittee/leasee name.

(12) Authorize temporary non-renewable grazing use where the grazing allotment(s) has been assessed and evaluated and the authorized officer documents in a determination that the allotment is:

(a) Meeting land health standards; or

(b) Not meeting standards solely due to factors other than existing livestock grazing. Authorized officer documents that the temporary non-renewable grazing use will not change the status of land health on the allotment(s).

E. Realty.

(1) Withdrawal extensions or modifications which only establish a new time period and entail no changes in segregative effect or use.

(2) Withdrawal revocations, terminations, extensions, or modifications and classification terminations or modifications which do not result in lands being opened or closed to the general land laws or to the mining or mineral leasing laws.

(3) Withdrawal revocations, terminations, extensions, or modifications; classification terminations or modifications; or

opening actions where the land would be opened only to discretionary land laws and where subsequent discretionary actions (prior to implementation) are in conformance with and are covered by a Resource Management Plan/EIS (or plan amendment and EA or EIS).

(4) Administrative conveyances from the Federal Aviation Administration (FAA) to the State of Alaska to accommodate airports on lands appropriated by the FAA prior to the enactment of the Alaska Statehood Act.

(5) Actions taken in conveying mineral interest where there are no known mineral values in the land, under section 209(b) of the Federal Land Policy and Management Act of 1976 (FLPMA).

(6) Resolution of class one color-of-title cases.

(7) Issuance of recordable disclaimers of interest under section 315 of FLPMA.

(8) Corrections of patents and other conveyance documents under section 316 of FLPMA and other applicable statutes.

(9) Renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

(10) Transfer or conversion of leases, permits, or rights-of-way from one agency to another (e.g., conversion of Forest Service permits to a BLM Title V Right-of-way).

(11) Conversion of existing right-of-way grants to Title V grants or existing leases to FLPMA section 302(b) leases where no new facilities or other changes are needed.

(12) Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way.

(13) Amendments to existing rights-of-way such as the upgrading of existing facilities which entail no additional disturbances outside the right-of-way boundary.

(14) Grants of rights-of-way for an overhead line (no pole or tower on BLM land) crossing over a corner of public land.

(15) Transfer of land or interest in land to or from other Bureaus or Federal agencies where current management will continue and

future changes in management will be subject to the NEPA process.

(16) Acquire access (temporary or permanent) on existing roads and trails crossing non-federal lands for purposes of stabilizing hill sides; stabilizing river banks; removing dead, down or dying trees; reduction of hazardous fuels; controlling insect infestations; removing and/or treating noxious or invasive weeds.

(17) Grant of a short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well.

(18) Temporary placement of a pipeline above ground.

(19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

(20) One-time issuance of short-term (3 years or less) rights-of-way or land use authorizations which authorize trespass action where no new use or construction is allowed, and where the proposal includes rehabilitation to restore the land to its natural or original condition.

F. Solid Minerals.

(1) Issuance of future interest leases under the Mineral Leasing Act for Acquired Lands where the subject lands are already in production.

(2) Approval of mineral lease readjustments, renewals and transfers including assignments and subleases.

(3) Approval of suspensions of operations, *force majeure* suspensions, and suspensions of operations and production.

(4) Approval of royalty determinations such as royalty rate reduction and operations reporting procedures.

(5) Determination and designation of logical mining units (LMUs).

(6) Findings of completeness furnished to the Office of Surface Mining Reclamation and Enforcement for Resource Recovery and Protection Plans.

(7) Approval of minor modifications to or minor variances from activities described in an approved exploration plan for leasable, salable and locatable minerals (e.g., the approved plan identifies no new surface disturbance outside the areas already identified to be disturbed).

(8) Approval of minor modifications to or minor variances from activities described in an approved underground or surface mine plan for leasable minerals (e.g., change in mining sequence or timing).

(9) Digging of exploratory trenches for mineral materials, except in riparian areas.

(10) Disposal of mineral materials such as sand, stone, gravel, pumice, pumicite, cinders, and clay, in amounts not exceeding 50,000 cubic yards or disturbing more than 5 acres, except in riparian areas.

G. Transportation.

(1) Placing existing roads and trails in any transportation plan when no new construction or upgrading is needed.

(2) Installation of routine signs, markers, culverts, ditches, waterbars, gates, or cattleguards on/or adjacent to existing roads and trails.

(3) Temporary closure of existing roads and trails.

(4) Placement of recreational, special designation or information signs, visitor registers, kiosks and portable sanitation devices.

H. Recreation Management.

(1) Issuance of Special Recreation Permits for day use or overnight use up to 7 consecutive nights that impact no more than 3 contiguous acres; and/or for recreational activities in travel management areas or networks that are designated in an approved land use plan.

I. Emergency Stabilization.

Planned actions in response to wildfires, floods, weather events, earthquakes, or landslips that threaten public health or safety, property, and/or natural and cultural resources, and that are necessary to repair or improve lands unlikely to recover to a

management approved condition as a result of the event. Such activities shall be limited to: repair and installation of essential erosion control structures; replacement or repair of existing culverts, roads, trails, fences, and minor facilities; construction of protection fences; planting, seeding, and mulching; and removal of hazard trees, rocks, soil, and other mobile debris from, on or along roads, trails, campgrounds, and watercourses.

These activities:

- (a) Shall be completed within one year following the event;
- (b) Shall not include the use of herbicides or pesticides;
- (c) Shall not include the construction of new roads or other new permanent infrastructure;
- (d) Shall not exceed 4,200 acres; and (e) shall be conducted consistent with Bureau and Departmental procedures and applicable land and resource management plans.

J. Other.

- (1) Maintaining plans in accordance with 43 CFR 1610.5-4.
- (2) Acquisition of existing water developments (e.g., wells and springs) on public land.
- (3) Conducting preliminary hazardous materials assessments and site investigations, site characterization studies and environmental monitoring. Included are siting, construction, installation and/or operation of small monitoring devices such as wells, particulate dust counters and automatic air or water samples.
- (4) Use of small sites for temporary field work camps where the sites will be restored to their natural or original condition within the same work season.
- (5) RESERVED.
- (6) A single trip in a one month period for data collection or observation sites.
- (7) Construction of snow fences for safety purposes or to accumulate snow for small water facilities.
- (8) Installation of minor devices to protect human life (e.g., grates across mines).

(9) Construction of small protective enclosures including those to protect reservoirs and springs and those to protect small study areas.

(10) Removal of structures and materials of nonhistorical value, such as abandoned automobiles, fences, and buildings, including those built in trespass and reclamation of the site when little or no surface disturbance is involved.

(11) Actions where BLM has concurrence or coapproval with another DOI agency and the action is categorically excluded for that DOI agency.

Appendix 11.1

Using the Documentation NEPA Adequacy Worksheet and Evaluating the NEPA Adequacy Criteria

This worksheet replaces the worksheet contained in the Instruction Memorandum entitled "Documentation of Land Use Plan Conformance and National Environmental Policy Act (NEPA) Adequacy." During preparation of the worksheet, if you determine that one or more of the criteria are not met, you do not need to complete the worksheet. If one or more of these criteria are not met, you may reject the proposal, modify the proposal or complete appropriate NEPA compliance (EA, EIS, Supplemental EIS, or CX if applicable) and plan amendments before proceeding with the proposed action.

Worksheet Documentation of Land Use Plan Conformance and NEPA Adequacy (DNA)

U.S. Department of the Interior
Bureau of Land Management (BLM)

OFFICE:

TRACKING NUMBER:

CASEFILE/PROJECT NUMBER:

PROPOSED ACTION TITLE/TYPE:

LOCATION/LEGAL DESCRIPTION:

APPLICANT (if any):

A. Description of the Proposed Action

B. Land Use Plan (LUP) Conformance

LUP Name* _____ Date Approved _____

Other document _____ Date Approved _____

Other document _____ Date Approved _____

* List applicable LUPs (e.g., Resource Management Plans and activity, project, management, or program plans, or applicable amendments thereto):

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decisions:

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decisions (objectives, terms, and conditions):

C. Identify applicable National Environmental Policy Act (NEPA) documents and other related documents that cover the proposed action.

List by name and date all applicable NEPA documents that cover the proposed action.

List by name and date other documentation relevant to the proposed action (e.g., biological assessment, biological opinion, watershed assessment, allotment evaluation, and monitoring report).

D. NEPA Adequacy Criteria

1. Is the new proposed action a feature of, or essentially similar to, the proposed action or the selected alternative analyzed in the existing NEPA document(s)?

Documentation of answer and explanation:

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, public interest, and resource values?

Documentation of answer and explanation:

3. Is the existing analysis adequate in light of any new information or circumstances (i.e. rangeland health standards assessments; recent Endangered Species listings; updated lists of BLM Sensitive Species)?

Documentation of answer and explanation:

4. Can you conclude without additional analysis or information that the direct, indirect, and cumulative impacts that would result from implementation of the current proposed action are similar to those analyzed in the existing NEPA document(s)?

Documentation of answer and explanation:

E. Persons/Agencies /BLM Staff Consulted

<u>Name</u>	<u>Title</u>	<u>Resource/Agency Represented</u>
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Note: Refer to the EA/EIS for a complete list of the team members participating in the preparation of the original environmental analysis or planning documents.

Conclusion

☐ Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitutes the BLM's compliance with the requirements of NEPA.

Note: If you found that one or more of these criteria is not met, you will not be able to check this box.

Signature of Project Lead: _____

Signature of NEPA Coordinator: _____

Signature of the Responsible Official: _____

Date: _____

Note: The signed Conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA, is subject to protest or appeal under 43 CFR Part 4 and the program-specific regulations.